

SUBPOENAED WITNESSES EVADE HOUSE OVERSIGHT COMMITTEE

Cooper and Committee unearth fraud in electric co-op industry--and their lobbyist doesn't like it

WASHINGTON--Congressman Jim Cooper and fellow members of the House Oversight and Government Reform Committee today held a hearing on fraud and abuse in the electric co-op industry, but two key witnesses didn't show. Bennie Fuelberg and W.W. Bud Burnett, the former general manager and president of Texas' Pedernales Electric Cooperative, evaded Congressional subpoenas, indicating through attorneys that if they had testified before Congress they would have invoked their Fifth Amendment right not to self-incriminate.

Fuelberg and Burnett are accused by angry co-op members of stealing millions of dollars of customer money, spending it on their own exorbitant salaries, lavish trips and even second homes in nearby New Mexico. Pedernales' exploits have been documented by reporter Claudia Grisales of the Austin American-Statesman. A civil lawsuit in the case is currently on appeal.

Cooper, meanwhile, documented a pattern of co-op mismanagement in an article he wrote for the Harvard Journal on Legislation. The article was included in the Congressional record at today's hearing. "Too many electric co-ops have turned away from their historic role as exciting, pro-consumer organizations and have instead taken on deeply troubling anti-consumer behaviors," Cooper wrote in the article. "Carefully considered, member-friendly reforms are long overdue in order to protect the rights of the co-ops' legal owners, including members' rights to receive refunds of \$3 billion to \$9 billion of capital credits. In addition, the conservation and environmental impact of co-op decision-making must be considered. It is time for members to take back their property and their co-ops, for the good of themselves and their country."

Glenn English, lobbyist for the National Rural Electric Cooperative Association (NRECA), an industry group, was called to respond to allegations raised by the Committee. After repeatedly denying that there were systemic problems in the co-op industry, English claimed that Cooper was under investigation for accessing the industry's secret, password-protected web site without authorization. Cooper responded that an NRECA insider gave him authorization to access the site, which he documented in footnotes to the article.

"We have a chance today to help 17 million co-op customers, and probably 40 million rural and suburban residents, get better treatment from their co-op," Cooper said in his opening statement (below). "In my state alone, hundreds of thousands of co-op customers own close to a billion dollars in co-op equity that they have never been told about, and never received a penny of in 70 years."

"Co-op customers are getting electricity today, but most of them don't have much power, and virtually all of them are in the dark."

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Oversight Committee hearing website -- includes Chairman Waxman's statement and witness statements

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COOPER STATEMENT ON LOBBYIST ACCUSATION

I was attacked today by a desperate Washington lobbyist who found it easier to make false charges against me than to defend the scandals in his industry.

After a four-hour hearing on electric co-ops, the head of the trade association for co-ops, Glenn English, got tired of defending the wrongdoing by a Texas co-op and lashed into me. Two top executives from the Texas co-op are currently evading subpoenas from federal marshals, and Mr. English did not want that to be the headline. He did not want people to know that his clients had stolen millions of dollars from their customers. So instead he made a false accusation against me.

Mr. English's specific charge is that he was told that I was under investigation for accessing his trade association's password-protected website without authorization. That is not true: I had full authorization, repeatedly, from a top co-op insider. That insider gave me their name and password to use for the website. If Mr. English wants to get mad at someone, perhaps he should look at his own organization.

Mr. English is trying to prevent Tennessee co-op customers from ever receiving the refund check that I think co-ops owe them. Tennessee co-ops hold nearly \$1 billion of customer money, or roughly \$1,800 per customer, but have never told Tennesseans exactly what they own, or how to get the money. I have been fighting Washington lobbyists in order to get Tennesseans their money back. Naturally, the folks who currently enjoy the benefits of that \$1 billion are fighting back, hard.

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STATEMENT FROM HOUSE OVERSIGHT COMMITTEE CHAIRMAN HENRY WAXMAN

In 1994, when I was investigating the tobacco industry, a cigarette company threatened me with jail unless I turned over my files to them. Their lawsuit was quickly thrown out of court, but it gave me first-hand experience with corporate intimidation. In my view, attempting to intimidate the Committee when we are investigating serious issues is a mistake. We won't be intimidated and we will continue to try to protect the interests of co-op customers by looking into any credible allegations of misconduct by the co-op boards.

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OPENING STATEMENT OF REP. JIM COOPER, AS PREPARED FOR DELIVERY

Committee on
Oversight and Government Reform

Opening Statement of
Rep. Jim Cooper

June 26, 2008

Thank you, Mr. Chairman.
I regret that we must have this hearing.
I love rural electric co-ops and don't want to see any of them harmed...
but I also don't want to see any co-op customers harmed. I don't even like to draw attention to co-ops
because I know how publicity-shy they are.
So far, I have not introduced any legislation to change co-ops because
my only goal is to return them to their roots.
My father helped start a rural co-op and I have represented the
customers of over 20 co-ops during my time in Congress, perhaps more than any
other member.

I started learning about co-ops
almost two decades ago when I first attended a co-op annual meeting in my
district. For almost ten years I have
been talking privately with co-op leaders, speaking at co-op conventions - both
state and national - to warn them about problems that even I could see as a
co-op observer. I've worked hard for
many years to solve co-op problems within the co-op family. But I was rebuffed at almost every turn, so
here we are today with 1) the largest electric co-op in America in a serious
scandal, 2) its former leaders hiding from federal marshals, and 3) loads of
other co-op problems bubbling, publicly, to the surface.

For much of
the last ten years, I didn't know for sure whether my co-op worries were
justified. But then I saw the
outstanding reporting of Margaret Newkirk at the Atlanta Journal-Constitution and of Claudia Grisales at the Austin

American-Statesman chronicling the abuses of Georgia and Texas co-ops. I also found that TVA Inspectors General had been complaining about Tennessee co-op misbehavior for a long time but, due to co-op pressure, hiding their report from Congress and, as the IG put it, "shrill media attention." I also stumbled upon the national co-op trade association's own secret, password-protected website and discovered that some of my worst fears were substantiated by the NRECA itself, the same organization that had been stonewalling me. That's when I decided to write a law review article which is being published this week by the Harvard Journal on Legislation. If you've got to wash your dirty laundry in public, you might as well get it clean.

I want to make seven quick points:

- If you think Pedernales is the only electric co-op scandal, then you believe that there can be only one cockroach. If such abuses can happen in the largest co-op in America, founded by a former U.S. President [SHOW Picture of LBJ], within sight of regulators in the Texas state capitol in Austin, they can happen anywhere. Co-ops serve portions of 47 states. [SHOW MAP and keep it up there] We already know of other, completely unrelated, co-op scandals near Atlanta, Birmingham, and Ft. Worth. Is your state next? How would you even begin to know, unless you've seen your co-op's audited financial statements? Or do you just take the co-op lobbyist's word for it? That's exactly what legislators in Texas did for too many years.

- Co-ops don't have to be mired in scandal to have serious problems. It doesn't take a spike in temperature; this chronic, low-grade fever could even be the most damaging to co-op health. The NRECA has been issuing reports for over 30 years warning all co-ops that they need to be refunding more money to customers because, if they don't, they risk losing their tax-exempt status. For decades, too many co-ops have turned a deaf ear to their own trade association on this other issues regarding their precious tax-exemption. Why would NRECA go to so much trouble, and pay for such expensive, secret reports as this one [Cooper: WAVE Report], unless they were really worried about an IRS crackdown? Much of this hearing will be spent reinforcing NRECA's own message to its members.

- Are co-op customers being treated fairly? Remember, co-ops were founded under Franklin Roosevelt's New Deal to be the most pro-consumer organizations in America. Co-ops brag about the "Co-op Difference." Yet NRECA itself has written that countless co-op customers pay an extra \$220 a year -- why? -- just so their co-op can remain inefficient. [Cooper: SHOW "A Framework for Change."] According to the NRECA itself, if small co-ops simply merged with other co-ops, they could save their customers two months of electricity bills every year. Wouldn't it be nice to give customers a two-month holiday from their light bills?

- Private property rights. Co-op customers really do own their co-op. And this isn't like taxpayers who, in theory, own an undivided interest in, say,

the Smithsonian Museum. Co-op customers literally have, or will have, legal title in their own name to their piece of \$31 billion of co-op equity, which is roughly the market value of Amazon.com. This averages out to \$1,824 per customer, an amount comparable to the economic stimulus checks that Congress passed this spring. [PICTURE of Stimulus Check and keep it up] Yet how many co-op customers have ever been told exactly what they own? Have any? I have not found one yet, except for one top power company executive who got all his money out every time he moved from one co-op to another. Why can't regular customers get this benefit, or is it reserved for VIPs? After all, internal co-op software calculates individual ownership to the penny; co-ops just run out of ink on their monthly bills before they disclose that ownership stake. All this leads me to conclude that this \$31 billion is probably the largest lost pool of capital in America. I estimate that co-ops could safely return \$3 billion to \$9 billion of customer funds this year. That money could help millions of rural ratepayers today who are having a hard time in a soft economy. And it's not a government handout; it's just returning their own money!

- When co-ops do not tell their customers the truth about exactly how much of the co-op they own, they break faith with their customers and they effectively confiscate customer property without permission. What if your bank or credit union refused to tell you how much is in your account? And when co-ops fail to make any refunds, they are unable to settle the accounts of former customers. As a result, many co-ops today are increasingly owned by dead people and people who have moved away, possibly destroying the legal status of the cooperative itself. Co-ops were never intended to be ghost houses.

- This year, giant energy companies are trying to take advantage of co-ops' strong balance sheets and tax-exempt borrowing authority in order to finance new power generation, particularly new coal-burning units. They want co-ops to generate more power, to increase pollution, and to issue billions of dollars of bonds to be sold on Wall Street. The last time co-ops fell for such a sales pitch was in the 1970s and 1980s, and many co-ops went bankrupt as a result. I think co-ops should make energy conservation their first priority and then, once they have helped reduce their customer's bills, think about other ventures. Let's keep co-op customers healthy and take care of Main Street before we take care of Wall Street.

- We need more disclosure from co-ops because sunshine is the best disinfectant. Today, even the richest co-ops insist on receiving full federal subsidies, even though some of them don't let the government, or even their own customers, look at their books. Without full disclosure, co-op democracy is a sham and co-op regulation is impossible. The official biography of the lending arm of co-ops, CFC, says that it was formed to tell Wall Street how rich co-ops are, while NRECA is telling Washington how poor they are. When did this double-talk become part of the honorable co-op tradition? Why do co-ops spend almost as much money as Boeing trying to influence Congress? If all co-ops are really as good as motherhood and apple pie, why do they have to spend so much money on politicians? Or are these political contributions just a narcotic to keep the regulators and watchdogs asleep?

Thank you again, Mr. Chairman, for holding this hearing. Thanks also to the best staff on Capitol Hill. We have a chance today to help 17 million co-op customers, and probably 40 million rural and suburban

residents, get better treatment from their co-op. In my state alone, hundreds of thousands of co-op customers own close to a billion dollars in co-op equity that they have never been told about, and never received a penny of in 70 years. Pedernales also never refunded a penny in 70 years until it was forced to, under pressure.

Our job today is to persuade electric co-ops, these wonderful New Deal organizations, to give today's customers a better deal. Co-op customers are getting electricity today, but most of them don't have much power, and virtually all of them are in the dark.

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